

Case C-370/90

The Queen

v

Immigration Appeal Tribunal and Surinder Singh,  
Ex parte Secretary of State for the Home Department

(Reference for a preliminary ruling  
from the High Court of Justice, Queen's Bench Division)

(Freedom of movement for persons — Right  
of residence of the spouse of a national of a Member  
State who returns to establish himself in his country of origin)

Report for the Hearing .....	I - 4267
Opinion of Advocate General Tesauo delivered on 20 May 1992 .....	I - 4280
Judgment of the Court, 7 July 1992 .....	I - 4288

### Summary of the Judgment

*Freedom of movement for persons — Right of entry and residence for nationals of Member States  
— Return to a Member State of one of its nationals who has exercised his right of free movement  
— Right of residence of that person's spouse  
(EEC Treaty, Art. 52; Council Directive 73/148)*

The provisions of the Treaty relating to the free movement of persons are intended to facilitate the pursuit by Community citizens of occupational activities of all kinds throughout the Community and preclude measures which might place Community citizens at a disadvantage when they wish to pursue an economic activity in the territory of another Member State. For that purpose, nationals of Member States have in particular the right, which they derive directly from Articles 48 and 52 of the Treaty, to enter and reside in the territory of other Member States in order to pursue an economic activity there as envisaged by those provisions.

A national of a Member State might be deterred from leaving his country of origin in order to pursue an activity as an employed or self-employed person in the territory of another Member State if, on returning to the Member State of which he is a national in order to pursue an activity there as an employed or self-employed person, his conditions were not at least equivalent to those which he would enjoy under Community law in the territory of another Member State. He would in particular be deterred from so doing if his spouse and children were not also permitted to enter and reside in the territory of that State under conditions at least

equivalent to those granted by Community law in the territory of another Member State.

The fact that a national of a Member State enters and resides in the territory of that State by virtue of the rights attendant upon his nationality, without its being necessary for him to rely on his rights under Articles 48 and 52 of the Treaty, does not preclude him from relying on the latter rights when he takes up residence again in that Member State.

Consequently, Article 52 of the Treaty and Directive 73/148 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services must be construed as requiring a Member State to grant leave to enter and reside in its territory to the spouse, of whatever nationality, of a national of that State who has gone, with that spouse, to another Member State in order to work there as an employed person as envisaged by Article 48 of the Treaty and returns to establish himself or herself as envisaged by Article 52 of the Treaty in the territory of the State of which he or she is a national. The spouse must enjoy at least the same rights as would be granted to him or her under Community law if his or her spouse entered or resided in the territory of another Member State.